

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

HAROLD AND WILLA PORTER	)	
	)	
COMPLAINANTS	)	
	)	
VS.	)	CASE NO. 94-199
	)	
WESTERN MASON WATER DISTRICT	)	
	)	
DEFENDANT	)	

O R D E R

On May 16, 1994, Harold Porter and Willa Porter ("the Porters") filed a complaint with the Commission against Western Mason County Water District ("Western Mason"). The complaint alleged that Western Mason unreasonably and arbitrarily refused to provide adequate water services for the Porters' proposed mobile home park when it denied the Porters' request to permit a six-inch connection to Western Mason's available six-inch water line.

On May 26, 1994, the Commission ordered Western Mason to satisfy the matters complained of or file a written answer to the complaint. On July 18, 1994, an informal conference was held at the Porters' request to discuss their complaint against Western Mason. Because the parties failed to reach an agreement on the contested issues, the conference was adjourned and on July 20, 1994, the Commission ordered that a formal hearing be held on August 10, 1994.

On August 8, 1994, the Commission ordered, at the request of the parties to the proceeding, that the hearing be postponed because the parties were engaged in settlement negotiations. On August 15, 1994, the parties signed a proposed settlement agreement. This agreement was received by the Commission on August 25, 1994.

The Commission scheduled an informal conference on December 8, 1994 to discuss concerns regarding the agreement. At that time, Commission Staff and Mr. Hollar, on behalf of the Porters, agreed that the proposed settlement should be supplemented to include: (1) an updated verification of the total cost of the project; (2) an agreement to limit the reimbursement for the construction project to a basis of 50 customers; (3) elimination of the reimbursement of the Porters' engineering costs of approximately \$2500 and elimination of the \$1500 cost of changing the three-inch line; and, (4) the requirement that a valve be closed to force the flow of water through the entire line around the Porters' property. The parties filed no comment on these modifications and the matter was submitted to the Commission without a hearing.

The Commission, having considered the evidence of record and being otherwise sufficiently advised, finds that the proposed settlement agreement in Appendix A, attached and incorporated hereto, is fair, just, and reasonable and should be accepted with the modifications agreed to on December 8, 1994.

IT IS THEREFORE ORDERED that:

1. The modified agreement, which is fair, just, and reasonable, be and it hereby is approved.

2. Within 30 days of the date of this Order, Western Mason shall furnish duly verified documentation of the total costs of this project including the cost of construction and all other capitalized costs (engineering and administrative). Said construction costs shall be classified into appropriate plant accounts in accordance with the Uniform System of Accounts for Water Utilities prescribed by the Commission.

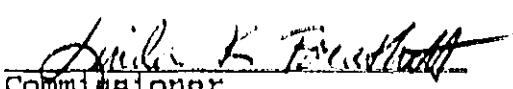
3. The Porters' complaint be and it hereby is dismissed.

Done at Frankfort, Kentucky, this 11th day of April, 1995.

PUBLIC SERVICE COMMISSION

  
Chairman

  
Vice Chairman

  
Commissioner

ATTEST:

  
Executive Director

APPENDIX A

AN APPENDIX TO AN ORDER OF THE KENTUCKY PUBLIC SERVICE  
COMMISSION IN CASE NO. 94-199 DATED APRIL 11, 1995.

**KENNOY  
ENGINEERS.**

851 Corporate Drive  
Lexington, Kentucky 40503  
606-223-1000

July 26, 1994

**RECEIVED**

AUG 25 1994

Mr. Harold Porter  
117 Crest Avenue  
Flemingsburg, Kentucky 41041

PUBLIC SERVICE  
COMMISSION

Re: PSC Case No. 94-199  
Western Mason Water District  
KEI #892/GC

Dear Mr. Porter:

This letter serves to summarize our telephone conversations regarding an agreement between yourself and Western Mason Water District to provide water service to your proposed trailer park. We have explained your proposal to the Water District and have received their concurrence. The following is a summary of the settlement:

- You have agreed to accept service from the existing 3" line presently located on your property instead of extending the 6" line located in Highland Heights.
- You understand that the District cannot certify to fire flows as prescribed by PSC regulations, and therefore cannot provide a fire hydrant on your property. A full size blow-off will be provided at the end of your line in place of a fire hydrant for flushing.
- Instead of a 6" line as shown by your previously submitted plans prepared by Mr. Ralph Deitz, you have proposed to install two 4" lines, one on each side of your access roads, so as to avoid any potential damage to your roads when the District sets meters.
- You also have agreed to loop these lines at the ends, so as to prevent a dead-end line situation which might pose an operational problem to the District.
- You now understand that the District is required by PSC regulations to refund to you, for the next 10 years, the cost equal to 50 feet of the cost of the main line for each customer which is added on to these lines. (Harold: Read this entire letter before reacting to this statement.)
- The standard hook-up fee of \$500 will not be required to be paid until an actual customer requests service or before a meter is set.
- Based on a cost estimate prepared by this office, you have agreed to place in control of the District \$19,477.79 prior to the submission of plans to the Division of Water for approval.
- This amount is an estimated cost of construction and engineering for these main lines excluding solid rock removal. If solid rock is encountered, it will be removed at a cost of \$75/hour for an operator and a ram hoe plus \$50/hour for an operator and backhoe for removing rock from the trench.

These rates have been used by the District when working with the Transportation Cabinet in relocating line on highway right-of-way and have been acceptable to them and thus are proposed here.

- This estimate is based on installation costs as the property presently lies and considering a reasonable amount of rock excavation. If, as you have planned, strip the top layers of soil and force the waterline to be installed in rock to permit thirty (30) inches of cover, this rock removal will be done by your contractor or by the District as an extra cost not associated with the waterline installation. This cost will be solely bore by your company and not reimbursable in any way by the District.
- This estimate is based on estimated quantities which could vary during construction. If there is an underrun, any costs associated will be reimbursed to you. If there is an overrun, you are required to pay the District the costs of this additional work.
- This estimate includes relocating a section of the existing 3" line to allow for improvements to your driveway entrance which you had previously requested. This cost normally would be bore by the property owner and would not be subject to reimbursement, but the District has agreed to include it as part of the project with potential reimbursement.
- The District will install these lines with their own personnel. Therefore, no inspection fees have been included in this estimate except for engineering to provide certification to the State Division of Water upon completion of construction.
- Upon completion of construction, all waterlines and appurtenances will be owned by Western Mason Water District and will be operated by them. Since the installation will be done by the District, you will not be subject to the normal one year warranty period.
- It is agreed between the parties that upon the construction permit being issued by the Division of Water, the District has thirty (30) days thereafter to obtain proper pipe and fittings for the project. Thereafter the District is allowed thirty (30) days for the installation and completion of the entire project but in the event of bad weather, the District is given credit for those days and the installation period would be extended to that extent. If additional rock excavation is required due to site grading as previously outlined, additional time will be granted for rock removal.
- It is further agreed and understood that the District shall apply to the Public Service Commission for a waiver of the fifty foot rule. It is further agreed that in the event of the Public Service Commission will not allow the waiver, Mr. Porter will suffer any deficit balance.
- It is acknowledged by the parties hereto, Mr. Harold Porter, applicant and Western Mason Water District, that this letter is a contract for all legal purposes and by the execution of same by both parties, said contract is in full force and effect and enforceable by either or both parties.

Regarding reimbursement for these project costs, the District is willing to waive the 50 foot rule of the PSC regulations. The District realizes that by staying with this rule, you would not be eligible to potentially receive all your

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investment back should this proposed development be fully occupied. This is evident by the following calculation:

$$\$19,477.79/4120 \text{ ft} = \$4.73/\text{ft}$$

at 50 feet/customer and a total of 63 proposed lots  
your total refund would potentially be only  
 $50 \text{ ft/customer} \times \$4.73/\text{ft} \times 63/\text{customer} = \$14,900$

However, since you have volunteered in your design of the development to install lines on each side of the road and to loop all lines, the District is willing to petition PSC to afford you the opportunity to recoup your total investment. I know your initial thoughts for putting in parallel lines was to avoid having the District from damaging your streets when installing services across the road; however, with your willingness to loop these lines the District gains an intangible benefit of lower operation problems due to continual circulation of water thus replenishing the chlorine residual. It also decreases their potential problems of installing services across the road.

We had discussed the methodology for determining the per customer refund. You have advised me that in the first phase development, while there would be water to 63 lots, you only had enough capacity in the wastewater treatment plant for 50 customers. So, potentially in the first 10 years, there would only be 50 customers. Thus, the recommended formula will be  $\$19,477.79/50 \text{ customers} = \$389/\text{customer}$ , which is agreeable to the District. This figure will vary depending on the underruns and overruns on the project, but the methodology will remain the same.

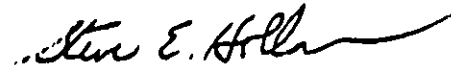
You asked me today if you could include the amount you have paid your engineer for developing the waterline plans. I indicated a reasonable amount should be eligible, but this has not been approved by the District. This item will have to be negotiated. I think you should consider some concession for the District relocating the existing 3" and two tie-ins at the ends of this line.

In terms of the timing of the reimbursement, the District has agreed to reimburse within two months or within two meeting dates after a customer in your development has requested service and paid the tap-on fee.

In regard to transferability of this agreement, I will let your attorney address this in the settlement.

Sincerely,

KENNOY ENGINEERS, INC.



Stephen E. Hollar, P.E.

SEH:tm

cc: Mr. Allen Porter, Chairman  
Mr. Jerry Willett  
Mr. W. Terry McBrayer

Mr. Harold Porter  
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This agreement entered into by both parties on 8-15-94  
Date

Allen Porter  
Allen Porter, Chairman  
Western Mason Water District

James A. Litzinger  
Witness

Harold E. Porter  
Harold Porter

Paul Hubbard Jr.  
Witness